

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA, : 20-CR-00006(BMC)
Plaintiff , :
-against- : United States Courthouse
AARON WEINREB, : Brooklyn, New York
Defendant. : February 26, 2021
- - - - - X : 10:00 a.m.

TRANSCRIPT OF PLEADING BY VIDEO
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: SETH DuCHARME
United States Attorney
BY: MICHAEL BUSHWACK,
Assistant United States Attorney
271 Cadman Plaza East
Brooklyn, New York

For the Defendant: FOLEY, GRIFFIN, JACOBSON, & FARIA,
LLP
666 Old Country Road, Suite 305
Garden City, NY 11530
BY: BRIAN J. GRIFFIN, ESQ.

Court Reporter: Andronikh M. Barna
225 Cadman Plaza East
Brooklyn, New York
(718) 613-2178

Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

1 THE CLERK: United States vs. Weinreb.

2 Docket No. 20-CR-06.

3 Counsel, please state your appearances, starting
4 with the government.

5 MR. BUSHWACK: For the United States,
6 Michael Bushwack.

7 Good morning, Your Honor.

8 THE COURT: Good morning.

9 MR. GRIFFIN: And for Mr. Weinreb, it's
10 Brian Griffin and Scott Gross.

11 Good morning, Your Honor.

12 Good morning to the government as well.

13 THE COURT: Good morning.

14 Hang on one second.

15 Ah, I see you, Mr. Griffin. Okay. Good morning.

16 Okay. And I see Mr. Weinreb on the line. You're
17 there, Mr. Weinreb?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: All right. So we are here for an entry
20 of plea on a superseding information.

21 Let me start with getting the basis for us to
22 proceed by video.

23 Let me first hear from the government. What is the
24 basis for doing video today?

25 MR. BUSHWACK: Your Honor, I believe the

1 Administrative Judge has issued several administrative orders,
2 one that is still currently in effect, finding that
3 appearances cannot be conducted in person without seriously
4 jeopardizing public health and safety.

5 Number two, it is my understanding that the
6 defendant, after consultation with counsel, has explicitly
7 consented to proceed via video today.

8 And I also have some specific findings for the plea
9 taking place today, if you would like me to go through those
10 as well.

11 THE COURT: I am not sure what you have in mind.
12 But oh, I see what you mean. Yes, do those now. Let's do the
13 whole thing by video.

14 MR. BUSHWACK: Sure. And it's specific to this
15 case, Your Honor. And I submit that this plea cannot be
16 further delayed without serious harm to the interests of
17 justice. Specifically, the victims in this case are very
18 interested in finality in the defendant accepting
19 responsibility and concluding the guilt phase of the case.
20 Additionally, I submit to the Court that further delay will
21 prejudice the victims' ability to obtain restitution, which
22 includes, among other things, necessary medical treatment and
23 therapy. So for those specific reasons, I submit that further
24 delay will prejudice this case and the victims and that we
25 should proceed in this fashion today.

1 THE COURT: Okay. Mr. Griffin, do you have anything
2 to add?

3 MR. GRIFFIN: Thank you, Judge. Yes.

4 First of all, of course we're prepared to consent
5 this morning, as outlined by Mr. Bushwack. I have spoken with
6 Mr. Weinreb about his respective rights. He wishes to move
7 forward this morning. Of course, the Court is also aware
8 specifically the age of this case. This is not a new case.
9 This is a case that has been pending for a period of time.
10 We've always asked for these adjournment requests, so I don't
11 put it on anyone but us, but by the same token I know as we
12 were approaching our last court dates the Court was getting
13 concerned that the interests of justice were not necessarily
14 in favor of continued adjournments, so I, of course, would
15 just remind the Court of that and the fact that we are looking
16 to move forward.

17 Additionally, Your Honor, the Court has probably
18 read the parameters of our plea agreement ahead of today's
19 plea agreement and is aware that the defense will not be
20 asking for a non-incarceratory sentence in this case and, as
21 such, Mr. Weinreb has certainly a significant and strong
22 interest in pushing this case forward so that he can begin
23 serving any incarceratory sentence that may occur.

24 He has five children. He has two elderly parents.
25 All of the children will have milestones, obviously, that he

1 would like to attend to. And, of course, his parents are in
2 their mid-70s. His mom suffers from some significant medical
3 issues, and obviously the hope and the prayer is that
4 Mr. Weinreb will return to his parents at the end of this,
5 both of them being available, you know, to him.

6 I also would be remiss not to, by the way, thank the
7 courtroom deputy for allowing us to get this all together.
8 She was accepting our e-mails up until about 8:00 last night,
9 so thanks to the Court for this.

10 THE COURT: Oh, you don't know the half of what she
11 has done. And I won't put it on the record, but I might talk
12 to you afterwards.

13 MR. GRIFFIN: You got it.

14 THE COURT: Okay. Let me just confirm with
15 Mr. Weinreb that you have, in fact, discussed your right to
16 proceed in person, when we are able to convene in person, with
17 Mr. Griffin?

18 THE DEFENDANT: Yes.

19 THE COURT: And you wish to proceed by video now
20 instead?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. Based on what I have heard
23 from the government and defense counsel, I am finding that the
24 interests of justice would be served by proceeding by video.
25 All of the reasons that both counsel have stated are valid;

1 the age of the case, the pressure on the victims to try to get
2 this behind them, the need for Mr. Weinreb to commence
3 whatever sentence I ultimately impose so that he can get that
4 behind him, and the uncertainty about when we would be able to
5 actually accommodate all these concerns if we did not proceed
6 by video. So I am finding under the CARES Act that grounds
7 exist for us to proceed by video and we will do so.

8 Okay. Next, let me see if the defendant, in fact,
9 wants to waive indictment in favor of the information.

10 Mr. Weinreb, just to summarize the charge for you,
11 it is a single-count information. And it says essentially
12 that between May of 2019 and October 2019, in this judicial
13 district, you knowingly persuaded or induced or enticed an
14 individual to travel in foreign commerce to engage in sexual
15 activity and that that constituted a crime.

16 Do you understand that charge?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. There is also a forfeiture
19 provision in the information. And the forfeiture provision
20 says that if you used any property in this crime or derived
21 any proceeds from it, you would be subject to forfeiting that
22 property or those proceeds.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Now, in terms of how we are

1 proceeding today, Mr. Weinreb, the first thing I need to tell
2 you is you have a constitutional right to be charged by an
3 indictment of a grand jury, but you can waive that right and
4 consent to being charged by information by the U.S. Attorney.

5 Basically, what I am saying is there is two ways
6 that the U.S. Attorney can prefer federal criminal charges
7 against someone. The usual way is that he takes his case to a
8 grand jury. The grand jury will be comprised of somewhere
9 between 16 and 23 people and, after hearing evidence presented
10 by only the U.S. attorney, they would have to conclude that
11 there is probable cause to believe that you committed a crime.
12 If they did not so conclude, you could not be charged with a
13 crime. You know, that is up to the grand jury. And if the
14 grand jury does not indict, then you would walk away from
15 this. That is your right, to proceed by indictment to the
16 grand jury. However, if you want, you can waive your right to
17 proceed before a grand jury, in which case you get charged by
18 what is known as an information, and that is what we have
19 here. The information, instead of being derived from what the
20 grand jury says, is, in fact, just drawn up by the
21 U.S. Attorney at his desk. Now, again, you do not have to
22 proceed that way, but you can proceed that way, with an
23 information, and then you are giving up your right to demand
24 that the U.S. Attorney present this case to the grand jury.

25 Do you understand what I have just told you?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Have you discussed waiving your right to
3 an indictment by the grand jury with your lawyer?

4 THE DEFENDANT: Yes.

5 THE COURT: And you understand you have an absolute
6 right to demand an indictment if you want to?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Have any threats or promises been made
9 to induce you to waive indictment?

10 THE DEFENDANT: No.

11 THE COURT: Is it correct that you wish to waive
12 your right to an indictment by a grand jury?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Griffin, is there any reason why he
15 should not waive?

16 MR. GRIFFIN: There is not.

17 THE COURT: All right. Now, I have been given a
18 written waiver, and I will note that it appears to be signed
19 by the defendant and his counsel. Let me just check that.

20 Yes. Is that your signature on the written
21 waiver --

22 THE DEFENDANT: Yes.

23 THE COURT: -- Mr. Weinreb? Okay.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Does the government think I need to ask

1 any other questions before I make a finding as to whether he
2 is voluntarily waiving?

3 MR. BUSHWACK: No, Your Honor. Only I will just
4 note that in communications with defense counsel, that
5 certainly indicated that Mr. Weinreb signed the waiver of
6 indictment.

7 THE COURT: Okay. That is correct, Mr. Griffin?

8 MR. GRIFFIN: Absolutely, Judge. We went over it
9 with Mr. Weinreb, he signed it, he acknowledged his signature
10 to myself and Mr. Gross, and he is prepared to move forward.

11 THE COURT: Okay. I am therefore finding that the
12 defendant is acting knowingly and voluntarily and waiving his
13 right to an indictment and we will proceed to arraign him on
14 the information.

15 Now hang on one second, I am having a couple of
16 computer problems.

17 (Pause.)

18 Okay. Mr. Weinreb, I have summarized the
19 information for you and I have advised you of the forfeiture
20 aspect of it.

21 Mr. Griffin, do you waive reading of the
22 information?

23 MR. GRIFFIN: Yes, Your Honor.

24 THE COURT: Okay. And I think I have confirmed,
25 Mr. Weinreb, that you have talked to your lawyer as much as

1 you feel you need to about the information, the charge
2 contained in the information?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right. It has one count. What is
5 your plea to that count?

6 THE DEFENDANT: Guilty.

7 THE COURT: All right. A guilty plea is entered as
8 to the single-count information subject to my ascertaining
9 that the plea is being given knowingly and voluntarily.

10 Let's have the defendant sworn, please.

11 (Defendant sworn.)

12 THE COURT: All right. Mr. Weinreb, before I accept
13 your guilty plea, I have to ask you a number of questions to
14 assure myself that it is, in fact, a valid plea.

15 If you do not understand any of the questions I ask
16 you, just tell me, and I will reword the question until you do
17 understand. Okay?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. Do you understand that you
20 have the right to be represented by counsel whether you went
21 to trial or whether you are pleading guilty today, but at
22 every stage of this proceeding?

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: And please confirm for me that

1 Mr. Griffin, who is in fact on the video, is your attorney.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Now, if at any time while I am asking
4 you these questions, you want to consult with him privately
5 about something, just let me know and we can arrange that on
6 this call. All right?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do not hesitate to do that if you want
9 to talk to him privately.

10 Now, you have just sworn to tell the truth. That
11 means that if you were to answer any of the questions that I
12 am about to ask you falsely, your answers could later be used
13 against you in a separate prosecution for the crimes of
14 perjury or making a false statement, so it is very important
15 that you tell me the truth.

16 Do you understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Tell me your full name, please.

19 THE DEFENDANT: Gary Weinreb.

20 THE COURT: And how old are you, sir?

21 THE DEFENDANT: Forty-nine years old.

22 THE COURT: What is the highest grade that you
23 completed in school?

24 THE DEFENDANT: Medical school.

25 THE COURT: And where was that?

1 THE DEFENDANT: SUNY Downstate, New York.

2 THE COURT: Here in Brooklyn?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. As you sit here today, is your
5 mind clear?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand what is going on here?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Are you presently or have you recently
10 been under the care of a doctor?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Tell me what for.

13 THE DEFENDANT: I have a psychiatrist that I see on
14 an every three-month basis and I have a therapist as well.

15 THE COURT: How often do you see the therapist?

16 THE DEFENDANT: Twice a week for one hour each.

17 THE COURT: All right. Does the diagnosis that you
18 have been given have any impact on your ability to understand
19 what is going on today?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: All right. In the last 24 hours, have
22 you taken any kind of narcotic drug?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: In the last 24 hours, have you taken any
25 kind of medication?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: What have you taken?

3 THE DEFENDANT: I took Prozac last night and I took
4 a Klonopin last night to go to sleep, around 10:00 p.m.

5 THE COURT: Okay. And as you sit here today, are
6 either of those medications having any effect at all on the
7 clarity of your focus or your mind?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: Okay. What was the second one you said,
10 clonazepam?

11 THE DEFENDANT: Klonopin. Prozac and Klonopin.

12 THE COURT: Do you think that has worn off by now?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: You feel perfectly sharp?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Have you ever been hospitalized or
17 treated for any kind of mental illness?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: Have you ever been hospitalized or
20 treated for addiction to drugs or alcohol?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: In the last 24 hours, have you had any
23 kind of alcoholic beverage to drink?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: All right. Mr. Griffin, in your

1 opinion, is your client capable of understanding the nature of
2 these proceedings?

3 MR. GRIFFIN: Indeed he is, Your Honor. And the
4 medications he alluded to before are prescribed and he's
5 taking the dosage as prescribed.

6 THE COURT: Okay. And does he understand the rights
7 that he will be waiving by pleading guilty?

8 MR. GRIFFIN: It is my belief he does. We've gone
9 over them, Your Honor.

10 THE COURT: Do you have any doubt at all as to his
11 competence to plead?

12 MR. GRIFFIN: None.

13 THE COURT: Have you advised him of the maximum
14 sentence and fine that could be imposed.

15 MR. GRIFFIN: We have, Your Honor.

16 THE COURT: And have you talked to him about the way
17 the sentencing guidelines work?

18 MR. GRIFFIN: Yes, Your Honor.

19 THE COURT: Okay. Mr. Weinreb, I think I confirmed,
20 but I want to ask you again. Have you had as much of an
21 opportunity to discuss this case with your lawyer as you feel
22 you need?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Are you fully satisfied with the advice
25 and representation that he has given you?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And let me confirm again, you are quite
3 sure you understand the charge that has been stated in the
4 information against you?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. Then let me go over some of
7 the rights, the most important rights that you will be waiving
8 if you continue to want to plead guilty.

9 The first and most important thing that you need to
10 understand is that you do not have to plead guilty even if you
11 are guilty. Under our legal system, the prosecutor has the
12 burden of proving the guilt of a defendant beyond a reasonable
13 doubt. If the prosecutor cannot or does not meet that burden
14 of proof, the jury has the duty to find the defendant not
15 guilty, even if the defendant is guilty. What that means is
16 that even if you are guilty, you still have a choice as you
17 are in front of me today. It is up to you to decide what to
18 do, not your lawyer and not anyone else. You can go ahead and
19 plead guilty to this information, as you apparently want to
20 do, or even now you could change your mind and tell me you
21 want to plead not guilty and go to trial and make the
22 government meet its burden of proving your guilt beyond a
23 reasonable doubt.

24 Do you understand that right now you have that
25 choice?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Now, if you wanted to plead not guilty,
3 then under the Constitution and laws of the United States, you
4 would be entitled to a speedy and public trial by jury, with
5 the assistance of your lawyers, on the charge contained in the
6 information. At that trial, you would be presumed innocent.
7 You would not have to prove that you were innocent. It again
8 would be the government's burden to overcome that presumption
9 and prove you guilty by competent evidence and beyond a
10 reasonable doubt. Again, if the government were to fail at
11 that, you know, the jury, they might think, gee, he is
12 probably guilty but we can't say he is guilty beyond a
13 reasonable doubt, they would have a duty to acquit you, if
14 that is the way it came out.

15 Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. But by pleading guilty, you
18 are giving up your right to have the government satisfy its
19 burden of proving that you are guilty beyond a reasonable
20 doubt.

21 Do you understand that you are giving up that right?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Now, if you wanted to go to trial,
24 Mr. Weinreb, the witnesses for the government would have to
25 come to court and testify in your presence and your lawyers

1 would have the right to cross-examine the witnesses for the
2 government, to object to evidence offered by the government,
3 and to offer evidence on your behalf. You could also request
4 the right to compel the attendance of witnesses by subpoena
5 who might testify in your favor. But when you plead guilty,
6 you are giving up your right to confront the witnesses who
7 might testify against you at a trial. You are also giving up
8 your right to offer evidence on your own behalf and to raise
9 any defenses that you might have.

10 Do you understand that you are giving up those
11 rights?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Now, if you went to trial, you would
14 also have the right to testify on your own behalf if you chose
15 to do so. However, you could not and would not be required to
16 testify. Under the Constitution of the United States, a
17 defendant in a criminal case cannot be forced to take the
18 witness stand at his trial and say anything that could be used
19 against him to show that he is guilty of the crime with which
20 he is charged. So what that means is, if you told me you
21 wanted to go to trial but you did not want to testify, I would
22 instruct the jury, after you made that final decision, that
23 they could not hold your choice not to testify against you in
24 any way. In fact, they could not even mention it in their
25 deliberations. That is called your right against

1 self-incrimination. But by pleading guilty, you are admitting
2 your guilt and you are giving up your right against
3 self-incrimination.

4 Do you understand that you are giving up that right?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. Now, if you continue to want
7 to plead guilty, I need to ask you questions about what you
8 did in order to satisfy myself that you are, in fact, guilty
9 of the charge to which you are pleading guilty, and you are
10 going to have to answer my questions truthfully and
11 acknowledge your guilt. Remember the oath you just took to
12 answer all questions truthfully.

13 Now, if you went to trial and you were found guilty,
14 you would have the right to appeal your conviction and all of
15 the events in the case leading up to that conviction. But
16 when you plead guilty, you are substituting your own words for
17 what a jury might find. And when you do that, you give up
18 your right to appeal your conviction or the finding of guilt
19 against you.

20 Do you understand that you are giving up that right
21 of appeal?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Now, once you plead guilty and I accept
24 your plea, you will be giving up your constitutional right to
25 a trial and all the other rights I have just discussed. There

1 is not going to be a further trial of any kind. I will simply
2 enter a judgment of guilty on the basis of your guilty plea.

3 Do you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Are you willing to give up your right to
6 a trial and the other rights I have just discussed?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right. Now, I have been given a
9 written plea agreement that the parties have entered into and
10 I want to ask some questions about that.

11 Melonie, do we have the ability to display that on
12 the screen?

13 THE CLERK: Yes. One moment, Judge.

14 THE COURT: Okay.

15 (Pause.)

16 THE COURT: And there it is. Okay.

17 Now, let me first confirm a couple of things with
18 Mr. Weinreb before I ask him about his signature.

19 Mr. Weinreb, have you reviewed this plea agreement
20 carefully with your attorney?

21 THE DEFENDANT: Yes.

22 THE COURT: You have read it over, talked about
23 them?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand its terms?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Does it accurately represent the entire
3 understanding or agreement that you have with the government?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And, Mr. Griffin, can you confirm that
6 you have read and reviewed with your client the plea
7 agreement?

8 MR. GRIFFIN: I can, Your Honor. I can assure the
9 Court that we took the time to go through this with him page
10 by page, line by line, paragraph by paragraph.

11 THE COURT: All right. And I take it that it
12 reflects your understanding of the entire agreement that your
13 client has with the government?

14 MR. GRIFFIN: Fully, yes, Judge.

15 THE COURT: There are no side deals of any kind?

16 MR. GRIFFIN: No, Judge.

17 MR. BUSHWACK: I'm sorry to interrupt, Your Honor.
18 This is Michael Bushwack.

19 There is just one minor component and it's with
20 respect to the allocution that is not specifically mentioned
21 in the plea agreement. The parties have agreed to an
22 additional allocution that we expect Mr. Weinreb to give under
23 oath today.

24 THE COURT: Okay. In response to my request for a
25 basis for the finding -- for the plea of guilty, right?

1 MR. BUSHWACK: Say that again, Your Honor? I'm
2 sorry.

3 THE COURT: In other words, when I ask him what
4 makes you guilty, he is going to give me a statement that you
5 have all agreed on?

6 MR. BUSHWACK: I believe that's how he is going to
7 do it. That was my understanding with defense counsel. But I
8 can certainly interject if necessary as well.

9 THE COURT: Okay, that is fine, but I am not sure
10 what you are tell me then. You have one agreement outside of
11 the written plea agreement, and what is that agreement
12 particularly?

13 MR. BUSHWACK: It is with respect to the defendant's
14 allocution. In addition to allocuting to the conduct which
15 brings about the charge contained in the superseding
16 information, the defendant is also going to allocute to some
17 additional facts that were agreed upon by the parties.

18 THE COURT: Okay, now I've got it.
19 Okay. You agree with that, Mr. Griffin?

20 MR. GRIFFIN: Indeed, yes, Judge.

21 THE COURT: Now, let me have Mr. Weinreb look at the
22 signature page on the agreement.

23 And, Mr. Weinreb, can you confirm for me that that
24 is, in fact, your signature?

25 THE DEFENDANT: Yes, Your Honor, it is.

1 THE COURT: All right. Melonie, you can take that
2 off.

3 Mr. Weinreb, let me talk to you about the sentencing
4 scheme that is applicable here.

5 The offense to which you are pleading guilty to
6 violating in the information carries a term of somewhere
7 between zero-years' custody and 20-years' custody.

8 I just want to confirm that with the government. Is
9 that right?

10 MR. BUSHWACK: Yes, Your Honor.

11 THE COURT: Okay. It also provides for a minimum
12 term of supervised release of five years and a maximum term of
13 supervised release of life. Now, supervised release refers to
14 a series of terms and conditions that would be placed upon
15 you, Mr. Weinreb, when you are discharged from custody. There
16 are things like not committing any additional crimes,
17 reporting at regular intervals to Probation, obtaining any
18 psychological therapy that is required and other things like
19 that. The important thing for you to remember is that if you
20 were to violate any of those terms and conditions once you are
21 released, you could be sentenced to up to another five years
22 for that violation. And if that happens, you would not get
23 any credit for time that you had already spent in prison.

24 Do you understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Additionally, I could impose a fine of
2 up to \$250,000 for this offense, and you will need to make
3 payment to the victims of these crimes in an amount that I
4 will subsequently determine. I will also impose a mandatory
5 \$100 special assessment. And as I mentioned to you earlier
6 today, if there is property or proceeds of property used in
7 this crime, you will be required to forfeit those as part of
8 your sentence. In addition to those, you will be required to
9 register as a sex offender in accordance with applicable law.

10 Now, let me also ask you, Mr. Weinreb, are you a
11 citizen of the United States?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. Now, I spoke to you previously
14 about the fact that by pleading guilty, you are giving up your
15 right to appeal your conviction. But under your plea
16 agreement, you are also giving up your right to appeal your
17 sentence as long as I sentence you to a term of 97 months or
18 less. In other words, if I sentence you to 97 months or less,
19 you will not be able to appeal that sentence, but if I
20 sentence you to more than 97 months, then you will.

21 Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Okay. Now, I also left out, there is a
24 special assessment for this crime, not only the \$100 I
25 mentioned, but there is another \$5,000 that is mandatory as

1 well.

2 Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Okay. Now, the next question is how am
5 I going to determine what the right sentence is for you. You
6 know, the statute, as I have just told you, says the custodial
7 portion of the sentence will be somewhere between zero and
8 20 years, and so the question is how do I know where to come
9 out in that very broad range. The starting point is what we
10 call sentencing guidelines. The guidelines take into account
11 the nature of your crime and any criminal history that you
12 have. They put those two things together on a grid and they
13 come up with a recommended range for the sentence. Now, once
14 that initial recommended range is calculated, there might be
15 other provisions of the guidelines that would allow me to
16 depart from that range, either making it higher or making it
17 lower, sentencing you to more or less time.

18 Now, keep in mind that while those guidelines are
19 advisory, I still have an obligation to consider them, but the
20 guidelines are only one factor set forth in the statute for me
21 to consider. The statute sets forth a number of other factors
22 that I have to consider against all of the facts and
23 circumstances of this case and who you are. And when I
24 consider all of those factors, I may find that what we call a
25 nonguidelines sentence is appropriate. A nonguidelines

1 sentence would be a sentence that is either higher or lower
2 than the recommended guideline range, could be either. The
3 bottom line is that until the day of sentencing, when I get a
4 presentence report about you from the Probation Department and
5 I hear from you and your lawyer and the government, you are
6 not going to know with any certainty what the guidelines will
7 be, you are not going to know with any certainty whether there
8 might be grounds to depart from them -- that means adjust them
9 higher or lower -- and you are not going to know with any
10 certainty whether I might impose a nonguidelines sentence,
11 which, again, could be higher or lower than the recommended
12 guideline range. In short, you are not going to know today
13 what your sentence will be and you are not going to be able to
14 withdraw your guilty plea later just because you do not like
15 the sentence.

16 Do you understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Okay. Even though the guidelines are
19 merely advisory to me, I want the attorneys to give you their
20 best estimate of what the guidelines are likely to say based
21 upon the facts available to them at this point in time. Keep
22 in mind that this is just a guess and it could be wrong.

23 Let me ask the government, what is the guideline
24 estimate?

25 MR. BUSHWACK: Between 70 and 87 months.

1 THE COURT: Okay. Mr. Griffin, do you have any
2 reason to disagree with that?

3 MR. GRIFFIN: No, we do not disagree. We actually
4 agree.

5 THE COURT: Okay. Now, I did want to ask the
6 government also, there is a provision in the agreement, I
7 noticed, that seems to lock in both sides to that
8 70- to 87-month range; is that right?

9 MR. BUSHWACK: To be clear, it locks the parties
10 into a range of between 60 months and 87 months.

11 THE COURT: Is that because -- oh, 60 months and
12 87 months, okay. So the parties are free to advocate, if they
13 wish, for a sentence within the 60- to 87-months range, but
14 not anything higher and not anything lower; is that right?

15 MR. BUSHWACK: Correct.

16 THE COURT: All right. Now, Mr. Weinreb, you need
17 to understand that that is what your lawyer and the government
18 have agreed to, that is not binding on me. I could still go
19 below the 60 months or I could still go above the 87 months.

20 Do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And do you understand that if the
23 government's and your lawyer's guideline estimate is wrong and
24 you are sentenced to more time than the estimate, you are not
25 going to be permitted to withdraw your guilty plea?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right. Do you have any questions
3 you want to ask me about this charge or your rights or
4 anything else related to this matter?

5 THE DEFENDANT: No, Your Honor. I discussed
6 everything with my lawyers.

7 THE COURT: All right. Are you ready to plead?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Mr. Griffin, do you know of any reason
10 why he should not plead guilty?

11 MR. GRIFFIN: None.

12 THE COURT: Are you aware of any legal defense to
13 the charge?

14 MR. GRIFFIN: No, Your Honor.

15 THE COURT: All right. Mr. Weinreb, let me know,
16 what is your plea to Count One of the information, guilty or
17 not guilty?

18 THE DEFENDANT: Guilty.

19 THE COURT: Are you pleading guilty voluntarily and
20 of your own free will?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Has anyone threatened or forced you to
23 plead guilty?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Other than the promises contained in the

1 written agreement and your agreement to allocute to certain
2 facts that I will ask you about in a minute, has anyone made
3 any other promises to you to get you to plead guilty?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Has anyone made any promise to you as to
6 what your final sentence will be?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: All right. Please tell me what you did,
9 in your own words, in connection with the act charged in
10 Count One of the information that you think makes you guilty.

11 THE DEFENDANT: Using a cell phone, I knowingly
12 enticed a minor who was outside of the United States at the
13 time to come to Brooklyn to engage in sexual activity for
14 which I knew was a criminal offense. I also engaged in sexual
15 intercourse with a second minor, therefore two minors,
16 identified as Victims 1 and 2, in my previous indictment
17 between the times of May 2019 and October 2019.

18 THE COURT: Okay. And as to the first part, when
19 you did the enticement, where did that occur?

20 THE DEFENDANT: It occurred --

21 THE COURT: Where were you?

22 THE DEFENDANT: -- through the use of my cell phone.
23 I was in New York.

24 THE COURT: Okay. Where in New York? In Brooklyn?

25 THE DEFENDANT: In Brooklyn, yes.

1 THE COURT: Okay. Is the government satisfied with
2 the allocution?

3 MR. BUSHWACK: Just one additional fact, Your Honor.
4 When the defendant engaged in sexual intercourse
5 with the two minor victims, where did that occur?

6 THE COURT: Where was that, Mr. Weinreb?

7 THE DEFENDANT: The first minor was in Brooklyn.
8 And the second minor was one single episode, and it took place
9 in Queens.

10 THE COURT: Okay. Anything else from the
11 government?

12 MR. BUSHWACK: The government is satisfied. Thank
13 you, Your Honor.

14 THE COURT: Based on the information given to me, I
15 find that the defendant is acting voluntarily, that he
16 understands his rights and the consequences of his plea, and
17 that there is a factual basis for the plea. I therefore
18 accept the plea of guilty to Count One of the information.

19 Let's set a sentencing date for about 90 days out,
20 Melonie.

21 THE CLERK: June 1st at 10:00 a.m.

22 THE COURT: Does that work for everybody?

23 MR. GRIFFIN: Yes, Your Honor.

24 MR. BUSHWACK: Yes, Your Honor.

25 THE COURT: Okay. Conditions of release are to

1 continue pending sentencing?

2 MR. GRIFFIN: Judge, we did have an application on
3 that. I did alert the government, as well as your deputy, to
4 the fact that we had an adjustment we're asking the Court to
5 make today as it relates to Mr. Weinreb's release.

6 THE COURT: Okay.

7 MR. GRIFFIN: As the Court may or may not recall,
8 Mr. Weinreb is currently under home incarceration. He is
9 permitted to come to our office, he is permitted to go to
10 court appearances, to medical treatment. What we're asking
11 the Court to consider adding is essentially making it home
12 detention with the only added addition that he be allowed to
13 attend religious services daily.

14 Prior to this incident, Your Honor, Mr. Weinreb was
15 a very observant orthodox Jew. He's still an orthodox Jew.
16 But prior to this, he was going sometimes two to three times
17 daily to services. Obviously since this inception and at our
18 request, the Court has allowed him to remain in home arrest.
19 As obviously he is preparing himself for a sentence that may
20 remove him from his community, he would like to reengage on at
21 least the daily activity for his religious services.

22 I have spoken with Pretrial, to be candid with the
23 Court. Pretrial's position was they would allow him one time
24 a week to do this. While I appreciate that concession and I
25 appreciate them allowing that, it is just not in line with his

1 religious observations. For many, once a week is appropriate
2 and enough, but for Mr. Weinreb it is more of a daily
3 occurrence. And that is a request we make.

4 THE COURT: All right. Tell me a couple of things.
5 First, how far is the synagogue from his home? I take it it
6 is a walking distance?

7 MR. GRIFFIN: Yes, well, so one is in Lawrence and
8 one is in Cedarhurst. I can ask Mr. Weinreb if they're both
9 walkable.

10 THE DEFENDANT: So one of them is walkable on the
11 Sabbath and the other one is about a five-minute drive during
12 the week.

13 THE COURT: Okay. Let me hear from the government.

14 MR. BUSHWACK: Your Honor, I spoke with
15 Mr. Weinreb's Pretrial Services officer, and Mr. Griffin did
16 accurately convey what her position is. And I am in agreement
17 with Pretrial Services that the once a week would be
18 sufficient under the circumstances, so I am then deferring to
19 Pretrial for that.

20 THE COURT: I have to admit, Mr. Griffin, I am not
21 familiar, and this may be nothing more than my ignorance, with
22 a custom among orthodox Jews to go multiple times a day to the
23 synagogue other than for mourning purposes -- m-o-u-r-n-i-n-g
24 -- and, you know, I am just not aware that that is done.

25 MR. GRIFFIN: So I can alert the Court that it is.

1 And here is what I would say to the Court. If the Court only
2 wants to allow for morning, then that is what it will be.
3 Mr. Weinreb, I am sure, can take a moment to express to the
4 Court how he has, you know, the religious life he's led up to
5 this and how that worked from a scheduling standpoint. But if
6 the Court is comfortable with mornings, then he will be
7 graceful and thankful to the Court for that alone.

8 THE COURT: Okay, again, I did not say morning. I
9 said m-o-u-r-n-i-n-g.

10 MR. GRIFFIN: Oh. Oh, okay.

11 THE COURT: I know when someone is in mourning for
12 the first year after the death, they generally go to synagogue
13 --

14 MR. GRIFFIN: Oh, no.

15 THE COURT: -- one could be in the morning, but it
16 is for the purpose of m-o-u-r-n-i-n-g. I am neutral as to
17 what time of day it is, I am just not familiar with anyone
18 going back and forth to the synagogue three times a day.

19 Let me hear from Mr. Weinreb. Maybe he can help
20 clarify it for me.

21 MR. GRIFFIN: Okay.

22 THE DEFENDANT: Yes. Thank you, Judge.

23 So as an orthodox Jew, I have always gone to
24 synagogue three times a day, every morning for morning praise,
25 and I go afternoon and evening. And the afternoon and evening

1 is usually, you know, put together around sunset, so like
2 right now it would be around -- 5:30 would be the afternoon
3 prayer and like 5:45 would be the evening prayer. It's
4 standard practice in my community.

5 I think what the Judge is referring to is that
6 people who are not orthodox or not actively practicing, during
7 that one year they go to the synagogue, you know, to say
8 kaddish, but they're joining a group that's there three times
9 a day. They're just participating -- you know, participating
10 just for those 12 months.

11 THE COURT: Okay. When you go to these synagogues,
12 Mr. Weinreb, how many people are there?

13 THE DEFENDANT: I would say on the Sabbath it would
14 be about 30 people there and during the week there would be
15 about ten or twelve.

16 THE COURT: Okay. And are these prescribed times of
17 services that you are appearing at or do you just show up any
18 time to do your davening?

19 THE DEFENDANT: No, they're prescribed times.

20 THE COURT: Okay. And is there a rabbi in charge
21 who leads these services?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. Have we had any problems --
24 I am asking the government -- with compliance on pretrial
25 release?

1 MR. BUSHWACK: There have been two cyber monitoring
2 issues. I believe both were brought to the Court's attention.
3 Those are the only two that I am aware of.

4 THE COURT: Okay. I am going to limit the defendant
5 to once a day he can go to shul, not the two or three times a
6 day.

7 And also, is it possible, Mr. Weinreb, to get a
8 confirmatory letter from the rabbi saying you were there? I
9 don't mean every day, but like once a week? Can you do that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. Have that submitted to
12 Probation -- I'm sorry, Pretrial. Okay?

13 THE DEFENDANT: Yes, Your Honor. Thank you.

14 THE COURT: All right. Terms of release are
15 modified to accommodate that.

16 Anything further?

17 MR. GRIFFIN: Nothing from the defense, Judge.

18 MR. BUSHWACK: And nothing from the government,
19 Your Honor. Thank you.

20 THE COURT: All right. We will see you in June.

21 MR. GRIFFIN: Thank you, all.

22 MR. BUSHWACK: Thank you, Your Honor.

23 THE COURT: Adjourned.

24 (Matter concluded.)
25